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## **Canada**

### **Solid Wood Products**

# **Pettigrew Confident that Canada will Win in Softwood Lumber Dispute 2002**

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#### **Report Highlights:**

Canadian trade minister Pettigrew called the Department of Commerce duties on softwood lumber "punitive" and said that Canada will move ahead formally with its NAFTA challenge.

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Includes Trade Matrix: No  
Unscheduled Report  
Ottawa [CA1], CA

## **PETTIGREW LAUNCHES NAFTA CHALLENGE FOLLOWING U.S. LUMBER DECISIONS**

The following reflects the standpoint and view of officials from the Canadian government and industry and in no way constitutes position or policy of the U.S. Department of Agriculture, the U.S. government, or the U.S. Administration.

The following is based on a news release from the Canadian Department of Foreign Affairs and International Trade. International Trade Minister Pierre Pettigrew announced that Canada will launch formal proceedings under the North American Free Trade Agreement (NAFTA) challenging the U.S. Department of Commerce Final Determination of subsidy on Canadian softwood lumber.

"The Commerce Department decisions are punitive, unfounded in substance and were made to mollify protectionist interests in the United States," stated Mr. Pettigrew. "I am fully confident in our NAFTA and WTO challenges, and I am taking this action to best advance the interests of our industry. We have won before. We will win again."

This action by the Government of Canada is taken in conjunction with ongoing challenges of U.S. law and practice at the World Trade Organization in defence of Canada's softwood lumber industry. This NAFTA challenge does not preclude future WTO actions.

Specifically, on February 26 and 27, 2002, the Government of Canada (GOC) filed notices of intent under Chapter 19 of NAFTA for bi-national panel reviews of the final countervailing and anti-dumping determinations. With the final determinations from the U.S. Department of Commerce (DOC), Canada has now formally requested a NAFTA Panel Review of the final subsidy determination. It is expected that the Canadian industry will request a NAFTA Panel Review of the final dumping determination.

Canada contends that the basis of the DOC investigation initiated in April 2001 is inconsistent with U.S. law. The GOC argues with the determination that provincial forest management programs are financial contributions that "provide a benefit to producer." Moreover, the GOC ascertains the DOC means of calculating these benefits was through the "impermissible use of a cross-border comparison." The GOC also challenges the DOC's decision to not consider 320 company applications for exclusion, the treatment of a variety of product and species requests for exclusion, and serious "deficiencies in the conduct of the investigation."

The results of NAFTA panel review are binding. Canada expects that it will be successful with its challenge, and that the United States Administration will be required to rescind its trade action, refund the countervailing duties imposed, and cancel any bonds.

Under the World Trade Organization (WTO), Canada has challenged several provisions of U.S. trade law. First, Section 129(c) (1) of the *Uruguay Round Agreements Act*, is being challenged, which prevents the U.S. from refunding duty deposits from foreign companies after the imposition of the duty has been found to be inconsistent with WTO rules.

Canada is challenging under the WTO the August 9, 2001 DOC preliminary determination of subsidy. Canada is challenging the initiation of the investigation, the basis upon which the preliminary determination was made, and a provision of U.S. law that limits the availability of expedited reviews to Canadian companies after completion of the countervailing duty investigation. Canada is also challenging the October 30, 2001 DOC preliminary determination of dumping. Canada is challenging the initiation of the investigation as well as the basis for the preliminary determination.

## **Reaction**

According to various press articles, Minister Pettigrew is quoted as saying that the failure of the talks to resolve the softwood lumber dispute stemmed from "a problem south of the border, not north of the border." Conservative Party Leader Joe Clark criticized the Liberal government of not working hard enough to head off the imposition of U.S. duties, saying that "further mill closures will be announced in British Columbia where there are thousands of Canadians out of work." One Canadian lumber industry executive stated that the "tariff against our lumber industry is unfair and an attack on our vital economic interests. Canada must take retaliatory measures on trade, and adjust our foreign policy to reflect the true state of Canada-U.S. relations."

British Columbia forests minister Mike de Jong, in a ministry news release, expressed outrage upon hearing of the DOC decision to impose duties of 29% on Canadian softwood lumber, stating:

"This is a brutal kick in the teeth for British Columbia's forest industry and communities. We have come through three weeks of tough negotiations that we now know were no more than a travesty and charade. But it is apparent the U.S. government continues to be bullied by a few powerful lumber barons in the U.S. South. We've always followed a two-track process, and we will continue to fight this unfair decision through our legal appeals before the World Trade Organization and the North American Free Trade Agreement. We'll see you in court, Uncle Sam."

## **Synopsis of Pettigrew Conference Call:**

In a media conference call following the DOC decision, trade minister Pierre Pettigrew stated that the GOC would continue with its litigation track with the WTO and NAFTA. Pettigrew was extremely disappointed that Canadian western red cedar had not been exempted from the DOC decision. The GOC will consider any assistance to the industry communities possible that does not lend to the argument that Canada is subsidizing its lumber industry. Pettigrew accused the U.S. forest industry, stating that it has become less productive. The void created from the lack of Canadian softwood lumber will be filled by other countries (central Europe and Brazil). Pettigrew remains confident that Canada can win this case purely on its own merit - there is no need to link the softwood lumber dispute to other issues. The GOC will continue to work with the Canadian forest industry on the issue of posting bonds. The GOC will continue to monitor exports of softwood lumber to the U.S. Pettigrew stated that Canada isn't closing any doors to

further discussion, but wants to see how the dialogue will continue. Pettigrew feels that the GOC has "scored points with the US Administration" and that the USG doesn't want to lose the discussions and proposals to date, but the US will have to give up managed trade in softwood lumber at some point.

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